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SUBJECT: Govt Postpones Tsvangirai Treason Trial

REF: Harare 2120

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1. (U) Summary: Zimbabwe's High Court has put off the trial of opposition Movement of Democratic Change (MDC) leader Morgan Tsvangirai on charges of treason until next February. We believe the postponement indicates the GoZ has been unable to build a strong case against its main political foe. End Summary.

Eleventh Hour Accusations

2. (U) In a bizarre case of political intrigue, the GoZ brought charges of high treason, punishable by death, against Tsvangirai and two other party officials immediately before last March's controversial election. Former Israeli agent Ari Ben-Menashe implicated them in an alleged plot to assassinate President Mugabe. Ben-Menashe had allegedly shot a video of himself discussing the plot with Tsvangirai.

Procedural Defects in a Structurally Weak Case

3. (U) According to local attorneys, the Zimbabwean legal system differs from the US system in that defendants are not automatically entitled to review evidence that will be used by the prosecution. In this case, Tsvangirai's attorneys requested postponement because they had received neither a copy of the allegedly damning audiotape nor a transcript, both of which they had requested. There is speculation that the State manipulated the audiotape, so Defense is seeking to have an expert examine the original before the trial begins. Additionally, Defense complained of delays in receiving an outline of State's case against the three defendants. Finally, Defense requested postponement because the original court date was set without consultation with defense attorneys, in violation of accepted practice.

4. (U) While the decision whether or not to grant the postponement was a matter of the High Court's discretion, the prosecution failed to contest the application. Local attorneys believe this failure to oppose, after earlier threats by the State to vigorously contest postponement, lends credence to the view that the GOZ has been unable to build a case.

5. (SBU) Comment: Ben-Menashe is a shady figure who has done consulting for Mugabe's government. If the video-tape exists, we suspect it shows evidence of manipulation or involves a sort of baiting and entrapment that any neutral court would throw out. It seems Tsvangirai was on the mark when he predicted to us in September (ref) that Ben-Menashe's unwillingness to testify would weaken an already flimsy case. While the Government has planned to try Tsvangirai and his colleagues at almost the same time as alleged wife-killer and MDC MP Jonwe (who subsequently died in custody), the GoZ must regard the trial's postponement as a "next-best" outcome, since it deprives the MDC's two most effective spokesmen (Tsvangirai and Welshman Ncube) of their passports for four more months and keeps the threat of a capital indictment hanging over their heads.

Sullivan